IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6779 OF 2004

Stylo Tailors ... Petitioner

Vs.

Sudheer Omprakash Bahl & Anr. ... Respondents

Mr. Rohini Dandekar i/b M/s. Berarwalla & Co. for the petitioner.

Mr. A.K. Abhyankar with Mr. R.S. Patil for respondent 1.

CORAM: SMT. RANJANA DESAI, J.

DATED: 22ND FEBRUARY, 2005.

P.C.:-

1. In this petition, the petitioner has challenged the order dated 17/6/2004 passed by the Small Causes Court at Bombay in Interim Notice No.307 of 2004 in T.E. Suit No.308/367 of 2000. The petitioner is original defendant 2. Respondent 1 is original plaintiff and respondent 2 is original defendant 1. The suit is filed for eviction of the defendants, inter alia, on the ground of subletting, bona fide requirement and also on the ground that the petitioner has lost protection of the Rent Act. The petitioner claims to be sub-tenant of defendant 1. According to the petitioner, he is in the suit premises since the year 1948.

2. In this suit, the petitioner filed his written statement in February, 2001. The affidavit of examination-in-chief of the plaintiff was filed in April, 2003. On 15/3/2004, the issues were recast and on the

very day an application was preferred by the petitioner for amending the written statement. The trial court has rejected the amendment application on the ground that the pleas sought to be taken up by way of amendment are already pleaded in the written statement filed by the petitioner and, hence, there is no need to amend the said written statement.

3. I have heard the learned counsel appearing for the petitioner. She strenuously contended that the trial court is not right in coming to the conclusion that the same pleas are being sought to be introduced by the petitioner by way of amendment. She submitted that great prejudice will be caused to the petitioner if the amendment is not allowed.

4. I find no substance in the submission of the learned counsel. If at all, the petitioner wanted to amend the written statement, he should have approached the trial court at the earliest. Today, I am informed by Mr. Abhyankar, the learned counsel for respondent 1 that the cross-examination of the plaintiff is going on and at such belated stage, written statement cannot be allowed to be amended. This appears to be an attempt to delay the disposal of the suit. The trial court is right in rejecting the application. Hence, the petition is rejected.

(SMT. RANJANA DESAI, J.)